

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

LATASHA NELSON, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 2:21-cv-00433

WALLER,
South Charleston Police Department, et al.,

Defendants.

ORDER

Pending before the Court is Plaintiffs Latasha Nelson, Andrew Miller, and Fontain Nelson's Complaint, (ECF No. 2), and Andrew Miller's Application to Proceed without Prepayment of Fees and Costs. (ECF No. 1.) By standing order entered on January 4, 2016, and filed in this case on August 3, 2021, (ECF No. 3), this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition ("PF&R"). Magistrate Judge Tinsley entered his PF&R on February 28, 2022, recommending that this Court deny Miller's Application to Proceed without Prepayment of Fees and Costs and dismiss this civil action without prejudice pursuant to the three strikes provision contained in 28 U.S.C. § 1915(g). (ECF No. 6.)

This Court is not required to review, *de novo* or under any other standard, factual or legal conclusions contained within the PF&R to which no objections were addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review

and Plaintiffs' right to appeal this Court's order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due on March 17, 2022. To date, Plaintiffs have failed to submit any objection in response to the PF&R, thus constituting a waiver of *de novo* review and Plaintiffs' right to appeal this Court's order.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 6), **DENIES** Plaintiff Miller's Application to Proceed without Prepayment of Fees and Costs, (ECF No. 1), and **DISMISSES** Plaintiffs' Complaint, (ECF No. 2), **WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(g). The Court further **DIRECTS** the Clerk to remove this matter from the Court's docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: April 5, 2022



THOMAS E. JOHNSTON, CHIEF JUDGE